APPEAL NO. 010491

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 15, 2001. The hearing officer determined that respondent (claimant) sustained a compensable injury on _____, and that she had disability from June 20, 2000, to the date of the hearing. Appellant self-insured ("carrier" herein), appeals contending that: (1) respondent (claimant) was not in the course and scope of her employment at the time of her fall in the school parking lot; (1) claimant did not sustain a new injury when she fell; and (3) any disability claimant had did not begin until July 6, 2000. Claimant responds that the hearing officer's decision should be affirmed.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant was in the course and scope of her employment at the time of her fall. Carrier asserts that claimant was not furthering the business of her employer when she fell in the parking lot at work. Claimant testified that she fell and injured her knee at about 10:00 a.m. on _____, as she walked to her vehicle in her employer's parking lot to get her lunch. Claimant said she wanted to put her lunch in the refrigerator so that it would not get hot. We conclude that the hearing officer's determination that claimant was in the course and scope of her employment is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *See* Texas Workers' Compensation Commission Appeal No. 001700, decided September 8, 2000; Texas Workers' Compensation Commission Appeal No. 001821, decided September 19, 2000. *See, generally* Texas Workers' Compensation Commission Appeal No. 010163, decided March 5, 2001.

Carrier contends that claimant did not sustain a new injury when she fell. The evidence was in conflict in this regard and claimant did have preexisting knee problems, but the medical evidence from Dr. G that claimant sustained an aggravation injury supports the hearing officer's determination. We conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Regarding disability, carrier complains that if claimant did have disability, it did not begin until July 6, 2000. However, claimant testified and wrote in a medical questionnaire that she began to lose time from work due to her injury on June 20, 2000. Claimant's attorney argued at the hearing that disability began July 6, 2000. However, the hearing officer was entitled to credit claimant's testimony and find that disability began on June 20, 2000. The disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge